

Trenton H. Norris (California State Bar No. 164781)
 Sarah Esmaili (California State Bar No. 206053)
 ARNOLD & PORTER LLP
 90 New Montgomery Street, Suite 600
 San Francisco, CA 94105
 Telephone: (415) 356-3000
 Facsimile: (415) 356-3099
 Email: trent.norris@aporter.com
 Email: sarah.esmaili@aporter.com

Peter L. Zimroth (*pro hac vice* admission pending)
 Kent A. Yalowitz (*pro hac vice* admission pending)
 Nancy G. Milburn (*pro hac vice* admission pending)
 ARNOLD & PORTER LLP
 399 Park Avenue
 New York, NY 10022
 Telephone: (212) 715-1000
 Facsimile: (212) 715-1399
 Email: peter.zimroth@aporter.com
 Email: kent.yalowitz@aporter.com
 Email: nancy.milburn@aporter.com

Attorneys for Plaintiff
 CALIFORNIA RESTAURANT ASSOCIATION

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

CALIFORNIA RESTAURANT
 ASSOCIATION,

Plaintiff,

v.

THE CITY AND COUNTY OF SAN
 FRANCISCO and THE SAN FRANCISCO
 DEPARTMENT OF PUBLIC HEALTH,

Defendants.

Case No.

**STIPULATION AND [PROPOSED]
 ORDER REGARDING PAGE LIMITS
 AND BRIEFING SCHEDULE
 REGARDING PLAINTIFF'S MOTION
 FOR DECLARATORY RELIEF AND A
 PRELIMINARY INJUNCTION, AND
 REGARDING STAY OF
 ENFORCEMENT**

(Civil Local Rule 7.11)

STIPULATION

WHEREAS, Plaintiff California Restaurant Association filed a Complaint against the City and County of San Francisco and the San Francisco Department of Public Health (collectively, "Defendants") alleging that Ordinance 40-08 ("Ordinance") violates the U.S. and California Constitutions;

WHEREAS, the Ordinance amends San Francisco Health Code sections 468-468.8 to require restaurants with twenty or more establishments in the State of California to make statements showing certain nutritional information on menu boards and menus in manner prescribed by the Ordinance;

WHEREAS, Plaintiff alleges that the Ordinance is preempted under federal and state law and that the Ordinance unconstitutionally compels speech by the restaurants subject to the Ordinance;

WHEREAS, Plaintiff has brought a Motion for Declaratory Relief and a Preliminary Injunction ("Motion") in this action to enjoin the San Francisco Department of Public Health from enforcing the Ordinance;

WHEREAS, certain nutritional disclosure requirements begin to take effect under the Ordinance on August 23, 2008 ("Disclosure Requirements");

WHEREAS, a proposed amendment to the Ordinance is pending that would, among other things, postpone the operative date of these Disclosure Requirements to September 20, 2008;

WHEREAS, in light of the proposed amendment to the Ordinance, Defendant San Francisco Department of Public Health has stated that it will not enforce these Disclosure Requirements until September 20, 2008;

WHEREAS, the Parties have agreed that, subject to Court approval of this Stipulation, Plaintiff's Motion would be noticed at least 63 days before the hearing date, Defendants' opposition papers would be due no less than 35 days before the hearing date, and Plaintiff's reply to the opposition papers would be due no less than 14 days before the hearing date;

1 WHEREAS, Defendants have agreed to postpone the operative date of the Disclosure
2 Requirements until October 14, 2008;

3 WHEREAS, Civil Local Rule 7-2(b) provides for a twenty-five (25) page limit on any
4 motion and supporting memorandum of points and authorities filed in this action;

5 WHEREAS, Civil Local Rule 7-3(c) provides for a twenty-five (25) page limit on any
6 opposition to any motion filed in this action;

7 WHEREAS, given the complexity of the constitutional issues raised in the action and in the
8 Motion, Plaintiff and Defendants believe that it is appropriate, subject to Court approval, for the
9 Motion and supporting memorandum of points and authorities and the Opposition to the Motion to
10 exceed the twenty-five (25) page limit such that they are each no more than thirty-five (35) pages in
11 length; and

12 WHEREAS, Plaintiff and Defendants agree that this stipulation is without prejudice as to
13 any party's right to seek further or additional relief as to matters addressed herein;

14 IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiff and Defendants,
15 subject to approval of the Court, that:

16 1. Plaintiff's Motion (including the supporting memorandum of points and authorities)
17 may exceed the twenty-five (25) page limit imposed by Civil Local Rule 7-2(b), but may not exceed
18 a total of thirty-five (35) pages, exclusive of the caption page, table of contents, table of authorities,
19 declarations, and exhibits.

20 2. Defendants' opposition to the Motion may exceed the twenty-five (25) page limit
21 imposed by Civil Local Rule 7-3(c), but may not exceed a total of thirty-five (35) pages, exclusive
22 of the caption page, table of contents, table of authorities, declarations, and exhibits.

23 3. Plaintiff's Motion shall be noticed for hearing on a date that is no less than 63 days
24 after the Motion is filed and served.

25 4. Defendants' opposition to the Motion shall be filed and served not less than 35 days
26 before the hearing date.

1 5. Plaintiff's reply to Defendants' Opposition to the Motion shall be filed and served
2 not less than 14 days before the hearing date.

3 6. The operative date of the Ordinance shall be stayed until October 14, 2008 without
4 prejudice as to Plaintiff's right to seek a further stay and Defendants' right to oppose any further
5 stay.

6 **SO STIPULATED:**

7 Dated: July 3, 2008

ARNOLD & PORTER LLP

8
9 By: Trenton H. Norris / SE
10 Trenton H. Norris
11 Attorneys for Plaintiff
12 CALIFORNIA RESTAURANT ASSOCIATION

13 Dated: July 3, 2008

14 DENNIS J. HERRERA
15 City Attorney
16 FRANCESCA GESSNER
17 Deputy City Attorney
18 By: Francesca Gessner, for
19 Tara Steeley
20 Attorneys for Defendants
21 CITY AND COUNTY OF SAN FRANCISCO
22 AND SAN FRANCISCO DEPARTMENT OF
23 PUBLIC HEALTH
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PURSUANT TO THE STIPULATION, IT IS SO ORDERED:

Dated: _____


UNITED STATES DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I am employed in the City and County of San Francisco, State of California. I am over the age of 18 years and not a party to the within action. My business address is 90 New Montgomery Street, Suite 600, San Francisco, California. On July 3, 2008, I caused the foregoing STIPULATION AND [PROPOSED] ORDER REGARDING PAGE LIMITS AND BRIEFING SCHEDULE REGARDING PLAINTIFF'S MOTION FOR DECLARATORY RELIEF AND A PRELIMINARY INJUNCTION, AND REGARDING STAY OF ENFORCEMENT to be hand-delivered to:

Francesca Gessner, Deputy City Attorney
Tara Steeley, Deputy City Attorney
San Francisco City Attorney's Office
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102-4682

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that this Declaration was executed on July 3, 2008, at San Francisco, California.



Carol Grey